

June 3, 2024

Via ECF

The Honorable Allyne R. Ross
 Eastern District of New York
 225 Cadman Plaza East
 Brooklyn, NY 11201

Re: Mirkin, et al. v. XOOM Energy, LLC, et al., No. 18 Civ. 2949 (ARR) (JAM)

Dear Judge Ross,

We write on behalf of Plaintiff and the Class pursuant to Your Honor's Individual Rule I.E. to request a brief extension of the opposition and reply deadlines for Defendants' motion to exclude the original expert report of Plaintiff's energy economist Seabron Adamson, ECF No. 214. There are two reasons for this request.

First, Defendants have now filed two separate motions to exclude Mr. Adamson's opinions: the previously referenced motion to exclude the original report, and XOOM's May 30 motion to exclude Mr. Adamson's amended report. *See* ECF No. 229 (Defendants' second motion to exclude). Plaintiff's deadline to respond to the second motion is June 21, 2024. *See* May 14, 2024, Electronic Order. Because Defendants' two motions both seek the exclusion of Mr. Adamson's testimony and involve substantial overlap, Plaintiff believes that responding to both motions at once on June 21 will streamline the issues for the Court's consideration.

Second, Plaintiff needs additional time to adequately respond to Defendants' first motion to exclude. Plaintiff has been delayed due to her ongoing briefing of her responses to Defendants' motions *in limine*, which were filed on the same day as Defendants' first motion to exclude. *See* ECF No. 223. Plaintiff's counsel has also had several unexpected work conflicts that have slowed their progress in this matter.

Per Your Honor's Individual Rule I.E., the current and requested new deadlines follow:

Brief	Current Deadline	Requested New Deadline
Plaintiff's Opposition	June 10, 2024	June 21, 2024
Defendants' Reply	June 24, 2024	July 15, 2024

This is Plaintiff's first request to extend these deadlines. No other scheduled dates are affected.

Defendants oppose this request, stating: "XOOM is opposed to this request. XOOM believes the request should be denied because Plaintiff has known about the timing for weeks, consented to this schedule, and now asks for an unwarranted extension at the last minute that would create more

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prejudice for XOOM by forcing it to prepare two Daubert replies between June 21-July 15 (which includes a holiday week) rather than the four-week period of June 10-July 8.”

Plaintiff does not understand Defendants’ position. The parties have worked together to accommodate scheduling needs throughout this litigation. Defendants were twice given an opportunity to propose a reply deadline that is acceptable to defense counsel, but counsel both times merely opposed the requested extension.

Thank you for the Court’s consideration of this request.

Respectfully Submitted

/s/ J. Burkett McInturff
J. Burkett McInturff

*Class Counsel for
Plaintiff and the Class*

cc: All Counsel of Record (*via ECF*)